

MAR 18 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ASMERET AFEWORKI,

Petitioner,

v.

MICHAEL B. MUKASEY,* Attorney
General,

Respondent.

No. 04-74149

Agency No. A79-255-693

MEMORANDUM**

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 10, 2008 ***
San Francisco, California

Before: HUG, RYMER, and RAWLINSON, Circuit Judges.

* Michael B. Mukasey is substituted for his predecessor Alberto R. Gonzales as Attorney General of the United States. Fed. R. App. P. 43(c)(2).

** This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

*** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Petitioner Asmeret Afeworki (Afeworki) petitions for review of the denial of her application for asylum, withholding of removal and relief under the Convention Against Torture (CAT).

Afeworki's presentation of fraudulent documents to support her assertion that she was of Eritrean descent, coupled with her inconsistent testimony regarding the procurement of those documents, constitute substantial evidence supporting the Immigration Judge's adverse credibility finding and the denial of Afeworki's requests for asylum and withholding of removal. *See Akinmade v. I.N.S.*, 196 F.3d 951, 955-56 (9th Cir. 1999) (explaining that false documents submitted to establish the elements of an asylum claim may support an adverse credibility determination); *see also Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003) (affirming the denial of asylum and withholding of removal where adverse credibility determination supported by substantial evidence).

Because Afeworki's CAT claim is "based on the same statements . . . that the [Board of Immigration Appeals] determined to be not credible" we "must . . . affirm the rejection of [Afeworki's] claim under the [CAT]." *Id.* at 1157.

Afeworki's failure to raise her claim for relief on humanitarian grounds before the Board of Immigration Appeals "constitutes failure to exhaust administrative remedies and deprives [us] of jurisdiction to hear the matter."

Pedroza-Padilla v. Gonzales, 486 F.3d 1362, 1365 n.3 (9th Cir. 2007) (citation, and internal quotation marks omitted).

PETITION DENIED.